

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

**CITIZENS FOR A MEGAPLEX-FREE
ALAMEDA,**

Appellant,

v.

CITY OF ALAMEDA et al.,

Respondents;

**ALAMEDA ENTERTAINMENT
ASSOCIATES, L.P.,**

**Real Party in Interest and
Respondent.**

A114941

**(Alameda County
Super. Ct. No. RG05235478)
ORDER MODIFYING OPINION
AND DENYING REHEARING
[NO CHANGE IN JUDGMENT]**

THE COURT:

It is ordered that the opinion filed herein on March 29, 2007, be modified as follows:

1. On page 7, the fourth sentence of the last paragraph and footnote 5 are deleted. Subsequent footnotes are renumbered and the revised paragraph now reads:

“After the city council’s August 16, 2005 hearing, the City retained a new architect to revise the exterior designs of the cineplex and parking structure to reduce their scale and bulk and to include greater evocation of Art Deco style. At a hearing on November 1, 2005, the city council gave its preliminary approval of the revised designs. The following month, the City’s National Historic Preservation Act consultant submitted his report and expressed support for the revised designs. The City later awarded construction bids for the Alameda Theatre Project.”

2. On page 22, first sentence of the second paragraph, insert a new footnote as follows and renumber the subsequent footnotes:

“To the extent that Citizens addresses section 21166, it contends that “there is no substantial evidence that the post-

May administrative record does *not* contain significant new information regarding potentially significant impacts in the areas of historic resources,^[fn.] aesthetics, and parking.”

. Fn.: “Under the Guidelines, “historical resources” include resources listed in the California Register of Historical Resources or determined to be eligible for such listing by the State historical resources commission. (Guidelines, § 15064.5, subd. (a)(1).) Historical resources also include resources included in a local register of historical resources or identified as significant in an historical resource survey meeting the requirements of section 5024.1, subdivision (g). (Guidelines, § 15064.5, subd. (a)(2).)”

3. On page 21, the final sentence of part I.F. of the opinion is revised to delete the introductory clause “Contrary to Citizens’ claims.”

The revised sentence reads as follows:

“The City’s decision to conduct environmental review at an early stage of this project is fully consistent with the policies expressed in the statute.”

There is no change in the judgment.

The petition for rehearing is denied.

Dated:_____

JONES, P.J.